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4 UNITED STATES DISTRICT COURT
5 WESTERN DISTRICT OF WASHINGTON
6 AT TACOMA

7 JOSE RENE LOPEZ,

8 Plaintiff,

9 v.

10 UNKNOWN,

11 Defendants.
12

Case No. C08-5027FDB/KLS

SECOND ORDER TO SHOW
CAUSE FOR FAILURE TO
STATE A CLAIM

13 Before the Court is Plaintiff's response to the Court's Order to Show Cause for Failure to State A
14 Claim. (Dkt. # 8). Plaintiff claims that he is having problems understanding the Court's order and
15 requests that the Court appoint an attorney to explain and file a response in a timely manner. *Id.* The
16 Plaintiff's request for an attorney has been denied by separate order. Plaintiff shall be given additional
17 time to file an amended complaint setting forth his claims in clear manner.

18 Plaintiff claims that he is in grave danger in prison, that general population inmates want to kill
19 him and that the "prison lie about [his] care and put [him] in greater danger."¹ (Dkt. # 1). This is not
20 enough to go forward in federal court. In order to state a claim under 42 U.S.C. § 1983, a complaint must
21 allege that the conduct complained of was committed by a person acting under color of state law and that
22 the conduct deprived a person of a right, privilege, or immunity secured by the Constitution or laws of the
23 United States. *Parratt v. Taylor*, 451 U.S. 527, 535 (1981), *overruled on other grounds, Daniels v.*
24 *Williams*, 474 U.S. 327 (1986). Section 1983 is the appropriate avenue to remedy an alleged wrong only
25 if both of these elements are present. *Haygood v. Younger*, 769 F.2d 1350, 1354 (9th Cir. 1985), *cert.*
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28 ¹At the time he filed his Complaint, Plaintiff was incarcerated at the McNeil Island Corrections Center.
Id. On January 28, 2008, the Court received notice that Plaintiff has been moved to the Monroe Correctional
Complex. (Dkt. # 4).

1 *denied*, 478 U.S. 1020 (1986).

2 Plaintiff must also allege facts showing how individually named defendants caused or personally
3 participated in causing the harm alleged in the complaint. *Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir.
4 1981). A defendant cannot be held liable under 42 U.S.C. § 1983 solely on the basis of supervisory
5 responsibility or position. *Monell v. New York City Dept. of Social Services*, 436 U.S. 658, 694 n.58
6 (1978). A theory of *respondeat superior* is not sufficient to state a § 1983 claim. *Padway v. Palches*, 665
7 F.2d 965 (9th Cir. 1982).


8 Although complaints are to be liberally construed in a plaintiff's favor, conclusory allegations of
9 the law, unsupported conclusions, and unwarranted inferences need not be accepted as true. *Id.* While the
10 court can liberally construe plaintiff's complaint, it cannot supply an essential fact an inmate has failed to
11 plead. *Pena*, 976 F.2d at 471 (*quoting Ivey v. Board of Regents of Univ. of Alaska*, 673 F.2d 266, 268 (9th
12 Cir. 1982)).

13 In other words, Plaintiff must name the Defendants who harmed him. Then he should describe
14 what each Defendant did, how that conduct violated Plaintiff's constitutional right or rights, how that
15 Defendant's conduct injured him, and what remedies Plaintiff seeks for that conduct. Plaintiff should also
16 include a paragraph telling this Court what actions he wants it to take on his behalf and the grounds for
17 this Court's jurisdiction over his action.

18 Accordingly, it is **ORDERED**:

19 (1) Plaintiff shall file an amended complaint, entitled "Amended Complaint." The
20 Amended Complaint will act as a complete substitute for the original complaint (Dkt. # 1) in this action.
21 To aid Plaintiff, the Clerk shall send Plaintiff a 1983 civil rights complaint for prisoners. The amended
22 complaint will be due **April 4, 2008**. If this pleading fails to state a claim, the Court will recommend
23 dismissal of this action.

24 DATED this 7th day of March, 2008.

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28 Karen L. Strombom
United States Magistrate Judge